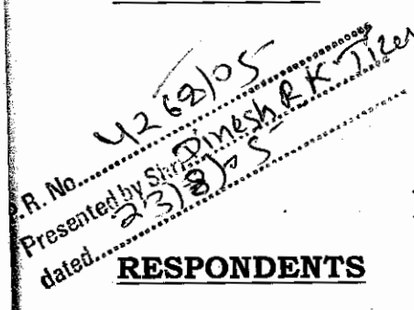
3 (1)

Single Bench

IN THE HIGH COURT OF JUDICATURE, AT BILASPUR (C.G.)

Writ Petition No. 4551 **/2005**

PETITIONER : Mangal Das. S/o Chandulal Bhasker aged about 23 years shiksha Karmi Varg 3 Primary School Lohara Kapa The. Mungeli Distt. Bilaspur (C.G.)



VERSUS

RESPONDENTS

1) Collector Bilaspur Distt. Bilaspur C.G.

2) The C.E.O. Janpad Panchayat Mungeli Distt. Bilaspur (C.G.)

3) State of Chhattisgarh

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA.

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... WP 4551/05 ..... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

17.10.2005

W.P.No.4551/2005

Shri Dinesh R.K.Tiwari, counsel for the petitioner.

Shri Arun Sao, Dy. Government Advocate for the State.

Heard.

By way of this writ petition, filed under Article 226/227 of the Constitution of India, the petitioner has challenged the legality of impugned show cause notice dated 10.8.2005 issued by Collector, Bilaspur.

Learned counsel for the petitioner submits that the petitioner was appointed as Shiksha Karmi Grade-III in Block Mungeli vide appointment order dated 4.6.2005. He further submits that thereafter, the petitioner joined in his respective Institution and since then he is working on the said post in the said Institution. The Collector, Bilaspur, all of a sudden issued a show cause notice to the petitioner and called upon him to file his reply on 22.8.2005 at 11.00 am.

The further contention of learned counsel for the petitioner is that the services of the petitioner are governed by the Provisions of M.P.(C.G.) Panchayat Shiksha Karmi (Recruitment and Condition of Service) Rules, 1997 and in the aforesaid rules, the Collector is an appellate authority, therefore, issuance of notice to show cause by

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ...W.P...4557/05..... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

the Collector is not in accordance with law and the same should be quashed.

The law in relation to filing of the writ petition and interference by writ court in the matter of show cause is now well settled. The High Court is not required to interfere in a matter of show cause, issued unless the same is not in conformity with the Rules or the same has been issued by the authority having no jurisdiction over the matter.

Even in such situation whether the jurisdiction of the authority is challenged, it has been suggested that first of all the petitioner should reach to the authority and file a reply / objection regarding his jurisdiction and the authority should be given an opportunity to pass an appropriate order on the objection raised by the petitioner. It has been held in the matter of ***The Special Director and Anr. v. Mohd. Ghulam Ghouse and Anr.*** reported in JT 2004 (1) SC page 206 that unless the High Court is satisfied that the show cause notice was totally non est in the eye of law for "absolute" want of jurisdiction of the authority to even investigate into facts, writ petitions should not be entertained for the mere asking and as a matter of routine, and the writ petitioner should invariably be directed to respond to the show cause notice and take all stands highlighted in the writ petition. Whether the show cause notice was founded on any legal premises is a

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक .....WP.4551/05..... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

jurisdictional issue which can even be urged by the recipient of the notice and such issues also can be adjudicated by the authority issuing the very notice initially, before the aggrieved could approach the Court.

Since the counsel could not satisfy that the show cause was totally non est in the eye of law for want of absolute jurisdiction, I am not inclined to entertain this writ petition against the show cause notice issued to the petitioner at this stage.

The petition is dismissed.

However, liberty is granted to the petitioner that if the matter is still pending before the concerned authority, he may appear before the concerned authority and file his reply. He may also raise the ground of jurisdiction and if such a reply is filed and ground of jurisdiction is raised by the petitioner, the competent authority shall first of all decide the ground of jurisdiction and thereafter, proceed in the matter in accordance with law.

The petition stands finally disposed of.

In view of this order, M.W.P.No.3690/2005, I.A.No.8215/2005 stand disposed of.

Certified copy as per rules.

Sd/-
Sunil Kumar Sinha
Judge